

Received & Inspected

AUG 21 2009

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Central Kitsap School District

9210 SILVERDALE WAY N.W.
MAILING ADDRESS: P.O. BOX 8
SILVERDALE, WASHINGTON 98383-0008
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<http://www.cksd.wednet.edu>

May 12, 2009

Federal Communications Commission
Office of the Secretary
445 12th Street SW
Room TW-A325
Washington, DC 20554

CC Docket No. 02-6
Request a Review

RE: Administrator's Decision on Appeal – Funding Year 2003-2004 dated May 05, 2009
(Appendix A) and Notification of Commitment Adjustment Letter Funding Year 2003: July 1,
2003 – June 30, 2004 dated March 26, 2009 (Appendix B).

Contact person for appeal information:
Janet Harris/Di Brown
9210 Silverdale Way NW
PO Box 8
Silverdale, WA 98383-0008
360-662-1740 (department phone, can get either of us at this number)
360-664-1741 (fax)
dib or janeth @cksd.wednet.edu

BACKGROUND INFORMATION ABOUT THE DISTRICT: The Central Kitsap School District had an employee who one of her main duties was E-rate and she left the District in 2005 and the District hired a consultant to deal with E-rate after that time. The Auditor was dealing with Di Brown who has had no experience with E-rate or E-rate issues. Di tried to contact the Auditor by phone and e-mail to get a clarification on what exactly auditor was requesting and the auditor would not return e-mails or phone calls.

QUOTE FROM THE ADMINISTRATOR'S DECISION ON APPEAL:

"Funding Request Number: 990017
Decision on Appeal: Denied

During the appeal review, USAC determined that in Block 5 of the Form 471, Jackson Park Elementary School listed Contract number and a Contract Award Date of January 30, 2003 for FRN 990017. In an email dated October 30, 2007, USAC requested that Jackson Park

No. of Copies rec'd _____
List ABCDE _____



Elementary School provide a copy of the contract for Internal Connection Services with Communication Specialist, signed and dated by both parties to validate the Contract Award Date. On October 30, 2007, in an email response to USAC's request for a contract, Di Brown, Tech Support Manager for Central Kitsap School District explained that the quotes were dated January of 2003 and that it was impossible for them to have secured a contract by January 30, 2003 as the project had been neither approved nor funded. Therefore, USAC was not able to determine if Jackson Park Elementary School had a signed contract in place with the service provider at the time of the filing of the Form 471. FCC Rules state that a contract must be signed and dated on or after the Allowable Contract Date as calculated by Form 470 posting date, but prior to the submission of the Form 471. Per Program Rules, Internal Connections are presumed to be provided under a contract (<http://www.usac.org/sl/providers/step04/>). Applicants must be able to demonstrate that it had a signed contract in place at the time it submitted the completed Form 471. You have failed to provide evidence that USAC erred in its decision."

EXPLANATION OF APPEAL: We admit that Di Brown didn't send the contract that the auditor was requesting because she thought that he wanted the contract (PO) that was used to actually purchase the equipment once the FRN had been approved for funding. She tried to communicate with the Auditor about a clarification as to what contract he was seeking but he would not respond to her requests. HOWEVER, with the letter of Appeal submitted to the Schools and Libraries Division Correspondence Unit we did submit a copy of Quote # 12903 submitted by Communication Specialists to the Central Kitsap School District dated 01/29/03 and signed by Janet Harris for the Central Kitsap School District on 01/29/03. A copy of this signed Quote is part of Appendix A.

ACTION REQUESTED: The Central Kitsap School District has demonstrated that we had a signed Quote with Communications Specialists which served as a contract dated 01/29/03 which was signed and dated prior to Form 471 #348092 which was signed and dated on 01/30/03. The District made every effort to comply with the E-rate rules as they understood them. Therefore we ask that you reverse the decision of the SLD Correspondence Unit to say that the Central Kitsap School District did have a valid contract in place at the time of signing Form 471# 348092 and set aside the Funding Commitment Adjustment Report for Form 471# 348092 dated March 26, 2009 to pay back \$35,027.98 to the E-rate program.

If you need any additional information, please contact me. Thank you for your consideration

Janet Harris - 8-13-09
Janet Harris

Janet Harris
Director of Information Services

Appendix A

Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal – Funding Year 2003-2004

May 05, 2009

Janet Harris
Central Kitsap School District
9210 Silverdale Way NW
P. O. Box 8
Silverdale, WA 98383-0008

Re: Applicant Name: JACKSON PARK ELEMENTARY SCHOOL
Billed Entity Number: 115639
Form 471 Application Number: 348092
Funding Request Number(s): 990017
Your Correspondence Dated: April 13, 2009

After thorough review and investigation of all relevant facts, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has made its decision in regard to your appeal of USAC's Funding Year 2003 Commitment Adjustment Letter for the Application Number indicated above. This letter explains the basis of USAC's decision. The date of this letter begins the 60 day time period for appealing this decision to the Federal Communications Commission (FCC). If your Letter of Appeal included more than one Application Number, please note that you will receive a separate letter for each application.

Funding Request Number(s): 990017
Decision on Appeal: **Denied**
Explanation:

- During the appeal review, USAC determined that in Block 5 of the Form 471, Jackson Park Elementary School listed a Contract number and a Contract Award Date of January 30, 2003 for FRN 990017. In an email dated October 30, 2007, USAC requested that Jackson Park Elementary School provide a copy of the contract for Internal Connection Services with Communication Specialist, signed and dated by both parties to validate the Contract Award Date. On October 30, 2007, in an email response to USAC's request for a contract, Di Brown, Tech Support Manager for Central Kitsap School District explained that the quotes were dated January of 2003 and that it was impossible for them to have secured a contract by January 30, 2003, as the project had been neither approved nor funded. Therefore, USAC was not able to determine if Jackson Park Elementary

Appendix A

The District does have a copy of the quote from Communication Specialists, Inc. that was signed by Janet Harris and dated 1-29-03 which serves as a valid contract between Communication Specialists, Inc. and the Central Kitsap School District and Jackson Park Elementary School. Because of the misunderstanding with the Auditor as to which quote he was requesting a copy the attached signed quote was not submitted to him. The Form 471 was signed on January 30, 2003 the day after the quote/contract was signed.

Based on this additional information, we ask that you set aside the Funding Commitment Adjustment Report for Form 471 Application Number: 348092 dated March 26, 2009.

If you need additional information about this appeal, please contact me.

Thank your for you consideration.

Sincerely,

Janet Harris
Director of Information Services

Appendix B

USAC

Universal Service Administrative Company

Schools and Libraries Division

Notification of Commitment Adjustment Letter

Funding Year 2003: July 1, 2003 - June 30, 2004

March 26, 2009

JANET HARRIS

JACKSON PARK ELEMENTARY SCHOOL

9210 Silverdale Way NW

Silverdale, WA 98383

Re: Form 471 Application Number: 348092
Funding Year: 2003
Applicant's Form Identifier: 401
Billed Entity Number: 115639
FCC Registration Number: 0012673299
SPIN: 143004449
Service Provider Name: Communication Specialists Inc.
Service Provider Contact Person: Don Hedges

Our routine review of Schools and Libraries Program (Program) funding commitments has revealed certain applications where funds were committed in violation of Program rules.

In order to be sure that no funds are used in violation of Program rules, the Universal Service Administrative Company (USAC) must now adjust your overall funding commitment. The purpose of this letter is to make the required adjustments to your funding commitment, and to give you an opportunity to appeal this decision. USAC has determined the applicant is responsible for all or some of the violations. Therefore, the applicant is responsible to repay all or some of the funds disbursed in error (if any).

This is NOT a bill. If recovery of disbursed funds is required, the next step in the recovery process is for USAC to issue you a Demand Payment Letter. The balance of the debt will be due within 30 days of that letter. Failure to pay the debt within 30 days from the date of the Demand Payment Letter could result in interest, late payment fees, administrative charges and implementation of the "Red Light Rule." The FCC's Red Light Rule requires USAC to dismiss pending FCC Form 471 applications if the entity responsible for paying the outstanding debt has not paid the debt, or otherwise made satisfactory arrangements to pay the debt within 30 days of the notice provided by USAC. For more information on the Red Light Rule, please see "Red Light Frequently Asked Questions (FAQs)" posted on the FCC website at http://www.fcc.gov/debt_collection/faq.html.

Schools and Libraries Division - Correspondence Unit
100 South Jefferson Road, P.O. Box 902, Whippany, NJ 07981
Visit us online at: www.usac.org/sl

Appendix A

School had a signed contract in place with the service provider at the time of the filing of the Form 471. FCC Rules state that a contract must be signed and dated on or after the Allowable Contract Date as calculated by the Form 470 posting date, but prior to the submission of the Form 471. Per Program Rules, Internal Connections are presumed to be provided under a contract (<http://www.usac.org/sl/providers/step04/>). Applicants must be able to demonstrate that it had a signed contract in place at the time it submitted the completed Form 471. You have failed to provide evidence that USAC erred in its decision.

- SLD has determined that, at the time you submitted your Form 471 application, you did not have a signed contract or legally binding agreement for services in place with your service provider(s) for services other than tariffed or month-to-month services. FCC rules require that applicants submit a completed FCC Form 471 "upon signing a contract for eligible services." 47 C.F.R. § 54.504(c). The FCC has consistently upheld SLD's denial of Funding Request Number(s) when there is no contract or legally binding agreement in place for the funding requested.¹ The FCC Form 471 instructions under Block 5 clearly state that you MUST have a signed contract or a legally binding agreement for all services that you order on your Form 471 except tariffed services and month-to-month services.² You did not provide evidence with your appeal that, at the time you signed your Form 471, you had signed a contract or legally binding agreement for eligible services. Consequently, SLD denies your appeal.

If your appeal has been approved, but funding has been reduced or denied, you may appeal these decisions to either USAC or the FCC. For appeals that have been denied in full, partially approved, dismissed, or canceled, you may file an appeal with the FCC. You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD section of the USAC website or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

We thank you for your continued support, patience and cooperation during the appeal process.

Schools and Libraries Division
Universal Service Administrative Company

¹ *Request for Review by Waldwick School District, Schools and Libraries Universal Service Support Mechanism*. File No. SL-D-256981, CC Docket Nos. 02-6, Order, 18 FCC Red. 22,994, DA 03-3526 (2003).

² See Instructions for Completing the Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (December 2002) at page 20.

Appendix A

Question on repayment + interest

21-09427

No interest charged while
under appeal

April 13, 2009

Letter of Appeal
Schools and Libraries Division
Correspondence Unit
100 S. Jefferson Rd.
P.O. Box 902
Whippany, NJ 07981

RE: Letter of Appeal-Notification of Commitment Adjustment Letter dated March 26, 2009

1. Contact person for appeal information:
Janet Harris/Di Brown
9210 Silverdale Way (etc)
360-662-1740 (department phone, can get either of us at that number)
360-664-1741 (fax)
dib or janeth @cksd.wednet.edu
2. Appeal Information:
Notification of Commitment Adjustment Letter dated March 26, 2009
FRN# 990017
Billed Entity Name: Jackson Park Elementary School
Form 471 Application Number: 348092
Billed Entity Number: 115639
FCC Registration Number: 0012673299
3. Quote from Adjustment letter that is being appealed: "During the course of a review it was determined that the applicant did not have a contract in place at the time of submission of the Form 471. This determination was based on the applicant confirmation that the contract was signed after the filing of the form 471 and the date listed on the form 471 was the service provider's quote date. FCC rules require applicants to have a valid contract as defined by the applicants' state procurement laws and regulations at the time they submitted the Form 471. "

We tried to contact the auditor to answer additional questions that we had during the audit but the auditor would not return phone calls or e-mails. We understood that the auditor was talking about the contract for the actual services and equipment that were actually purchase once the Form 471 was approved. Because of the length of time between the 471 application and approval the equipment on the original quote had to be updated and changed.

Appendix B

TO APPEAL THIS DECISION:

You have the option of filing an appeal with USAC or directly with the Federal Communications Commission (FCC).

If you wish to appeal the Commitment Adjustment Decision indicated in this letter to USAC your appeal must be received or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. In your letter of appeal:

1. Include the name, address, telephone number, fax number, and email address (if available) for the person who can most readily discuss this appeal with us.
2. State outright that your letter is an appeal. Identify the date of the Notification of Commitment Adjustment Letter and the Funding Request Number(s) (FRN) you are appealing. Your letter of appeal must include the
 - Billed Entity Name,
 - Form 471 Application Number,
 - Billed Entity Number, and
 - FCC Registration Number (FCC RN) from the top of your letter.
3. When explaining your appeal, copy the language or text from the Notification of Commitment Adjustment Letter that is the subject of your appeal to allow USAC to more readily understand your appeal and respond appropriately. Please keep your letter to the point, and provide documentation to support your appeal. Be sure to keep a copy of your entire appeal including any correspondence and documentation.
4. If you are an applicant, please provide a copy of your appeal to the service provider(s) affected by USAC's decision. If you are a service provider, please provide a copy of your appeal to the applicant(s) affected by USAC's decision.
5. Provide an authorized signature on your letter of appeal.

To submit your appeal to us on paper, send your appeal to:

Letter of Appeal
Schools and Libraries Division - Correspondence Unit
100 S. Jefferson Rd.
P. O. Box 902
Whippany, NJ 07981

For more information on submitting an appeal to USAC, please see the "Appeals Procedure" posted on our website.

If you wish to appeal a decision in this letter to the FCC, you should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received by the FCC or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. We strongly recommend that you use the electronic filing options described in the "Appeals Procedure" posted on our website. If you are submitting your appeal via United States Postal Service, send to FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554.

Appendix B

FUNDING COMMITMENT ADJUSTMENT REPORT

On the pages following this letter, we have provided a Funding Commitment Adjustment Report (Report) for the Form 471 application cited above. The enclosed Report includes the Funding Request Number(s) from your application for which adjustments are necessary. See the "Guide to USAC Letter Reports" posted at <http://usac.org/sl/tools/reference/guide-usac-letter-reports.aspx> for more information on each of the fields in the Report. USAC is also sending this information to your service provider(s) for informational purposes. If USAC has determined the service provider is also responsible for any rule violation on the FRN(s), a separate letter will be sent to the service provider detailing the necessary service provider action.

Note that if the Funds Disbursed to Date amount is less than the Adjusted Funding Commitment amount, USAC will continue to process properly filed invoices up to the Adjusted Funding Commitment amount. Review the Funding Commitment Adjustment Explanation in the attached Report for an explanation of the reduction to the commitment(s). Please ensure that any invoices that you or your service provider(s) submits to USAC are consistent with Program rules as indicated in the Funding Commitment Adjustment Explanation. If the Funds Disbursed to Date amount exceeds your Adjusted Funding Commitment amount, USAC will have to recover some or all of the disbursed funds. The Report explains the exact amount (if any) the applicant is responsible for repaying.

Schools and Libraries Division
Universal Services Administrative Company

cc: Don Hedqes
Communication Specialists Inc.

**Funding Commitment Adjustment Report for
Form 471 Application Number: 148092**

Funding Request Number: 990017
 Services Ordered: INTERNAL CONNECTIONS
 SPIN: 143604449
 Service Provider Name: Communication Specialists Inc.
 Contract Number: Quote 12903 01/30/2003
 Billing Account Number:
 Site Identifier: 115639
 Original Funding Commitment: \$35,027.98
 Commitment Adjustment Amount: \$35,027.98
 Adjusted Funding Commitment: \$0.00
 Funds Disbursed to Date: \$35,027.98
 Funds to be Recovered from Applicant: \$35,027.98

Funding Commitment Adjustment Explanation:

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. During the course of a review it was determined that the applicant did not have a contract in place at the time of submission of the Form 471. This determination was based on the applicant confirmation that the contract was signed after the filing of the form 471 and the date listed on the form 471 was the service provider's quote date. FCC rules require applicants to have a valid contract as defined by the applicants' state procurement laws and regulations at the time they submit the Form 471. Since the applicant was unable to demonstrate that they had a contract in place at the time of submission of the Form 471 that meets the state laws' definition of a valid contract, the commitment has been rescinded in full and USAC will seek recovery of any disbursed funds from the applicant.